

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Indictment No.: 20 CR 160 (MKV)

v.

JORGE NAVARRO, et al.,
(SETH FISHMAN),

DECLARATION

Defendant.

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MAURICE H. SERCARZ, being duly sworn deposes and says:

1. I am member of the firm of Sercarz & Riopelle, LLP, counsel of record for the defendant Seth Fishman.

2. Seth Fishman (“Dr. Fishman,” “Fishman,” “the defendant”) is charged in Counts 1 and 2 of the instant Indictment. Count 1 charges a conspiracy to engage in the adulteration and misbranding of drugs from 2016 to 2020 with five other indicted defendants in violation of 18 U.S.C. § 371. Count 2 charges the defendant with conspiracy to engage in the adulteration and misbranding of drugs from 2002 through March of 2020, together with three defendants not named in Count 1.

3. After reviewing the discovery material and pleadings provided by the Government in this case, the following exhibits are submitted in support of defendant’s *in limine* motion:

4. **Exhibit A** is discovery material provided by the Government in connection with the death of a racehorse named Louisville in Delaware. Because these documents have been labeled sensitive by the Government they will be provided to the Court under seal.

5. **Exhibit B** is the Government's letter dated November 17, 2021, providing Notice of its Intent to offer evidence under Rule 404(b).

6. **Exhibit C** is the Proffer Agreement signed by the defendant in connection with his testimony in the trial of *United States v David Brooks*, in the Eastern District of New York.

7. **Exhibit D** is a Proffer Agreement signed by the defendant shortly after being charged in the instant case. The agreement was subject to the Government's standard limited grant of immunity.

8. **Exhibit E** is the Government's Notice of Intent to call expert witnesses dated November 18, 2021.

9. For all of the reasons set forth more fully in the Memorandum of Law, it is respectfully submitted that Dr. Fishman's motion *in limine* should be granted.

Dated: New York, New York
December 1, 2021

/s/ Maurice H. Sercarz
MAURICE H. SERCARZ